

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 146 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA. and  
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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COMMISSIONER OF INCOME TAX

Versus

POWER BUILD PVT. LTD.

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Appearance:

MR MANISH R BHATT for Petitioner  
SERVED BY RPAD - (N) for Respondent No. 1

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CORAM : MR.JUSTICE R.BALIA. and  
MR.JUSTICE A.R.DAVE

Date of decision: 23/12/98

ORAL JUDGEMENT

1. At the instance of revenue following question of law has been referred to this Court for its opinion arising out of order of the Tribunal in ITA 1390/Ahd/82 relating to assessment year 1978-79 in the case of respondent assessee:

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in allowing depreciation on drawings, patterns, etc. treating the same as plant under sub-section 93) of section 43 of the Income-tax Act, 1961?"

2. It is candidly stated by learned counsel for the revenue that answer to the question is to be negatived in view of decisions of Supreme Court in CIT, Gujarat v. Elecon Engineering Co.Ltd.166 ITR 66 and in Scientific Engineering House P. Ltd. v. CIT, Andhra Pradesh 157 ITR 86.

3. In view of the aforesaid, the question is answered in the affirmative, that is to say, against the revenue and in favour of the assessee. No one appeared on behalf of assessee.

There shall be no orders as to costs.

(Rajesh Balia, J)

(A.R. Dave, J)